

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>NOEL COLON,</b>	)	<b>CASE NO.1:09CV770</b>
	)	<b>1:05CR379</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE CHRISTOPHER A. BOYKO</b>
	)	
<b>Vs.</b>	)	
	)	
<b>UNITED STATES OF AMERICA</b>	)	<b>ORDER</b>
	)	
<b>Defendant.</b>	)	

**CHRISTOPHER A. BOYKO, J:**

Before this Court is Petitioner's Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 (ECF #67). Petitioner has previously filed a Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 in the above criminal case and Civil Case 1:08-cv-3027. The Court filed its Opinion and Order denying Petitioner's Motion on March 12, 2009.

Pursuant to 28 U.S.C. § 2255 (h), "A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain-

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable fact finder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable."

Petitioner has not been granted leave by the 6th Circuit Court of Appeals to file a

subsequent Motion to Vacate, Set Aside or Correct Sentence. Therefore, Petitioner's Motion is dismissed.

IT IS SO ORDERED.

April 7, 2009 \_\_\_\_\_  
Date

s/Christopher A/ Boyko  
CHRISTOPHER A. BOYKO  
United States District Judge